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**COMMENTS OF ACA INTERNATIONAL REGARDING
SSN'S IN THE PRIVATE SECTOR**

PROJECT NO. P075414

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I. Introduction.

The following comments are submitted on behalf of ACA International (ACA) in response to the Federal Trade Commission's request for comments on the uses of Social Security Numbers (SSNs) in the private sector to reduce the occurrence of identity theft.

As part of the accounts receivable management industry, ACA members regularly use consumer credit information, including SSNs. This information is essential to the process of recovering payments. SSNs are the only unique identifier recognized across industries and consistently applied throughout a myriad of consumer transactions. SSNs are a critical component in initiating and fulfilling consumer transactions. As the Commission recently testified,

SSNs play a vital role in our economy, enabling both business and government to match information to the proper individual. Federal, state, and local governments rely extensively on SSNs for identifying consumers when administering programs that deliver services and benefits to the public. With 300 million Americans, many of whom share the same name, the SSN presents significant advantages as a means of identification because of its uniqueness and permanence.¹

¹ Prepared Statement of the Federal Trade Commission Before the Ohio Privacy and Public Records Access Study Committee of the Ohio Senate and House of Representatives on Public Entities, Personal Information, and Identity Theft, at 4 (May 31, 2007).

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For the credit and collections industry, unrestricted access to SSN information by licensed and regulated debt collectors is not simply a matter of expediency or convenience. As discussed in this comment, accessing SSN information is necessary to comply with legal obligations imposed under Federal and state laws, for example, complying with the accuracy and completeness standards of the Fair Credit Reporting Act (FCRA); the Fair and Accurate Credit Transactions Act (FACTA) and the Disposal Rule promulgated by the Commission; the Fair Debt Collection Practices Act (FDCPA); the Graham Leach Bliley Act (GLBA) and the Commission's implementing regulation, the Safeguards Rule; and the Health Insurance Portability and Accountability Act (HIPAA). Indeed, the credit reporting system is predicated upon the use of SSN to accurately identify consumers when reporting information to, and obtaining information from, consumer reporting agencies. As such, there is perhaps no greater threat to the functioning of the credit and collection system in the United States than restrictions placed on the access to and use of SSNs.

It is because of the unique status of the SSN that unscrupulous individuals seek to use SSNs to perpetrate crimes such as identity theft. ACA members are keenly aware of the impact of identity theft. In many instances, the theft is unknown to a consumer until a delinquency prompts a creditor to assign the account to an accounts

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receivable management firm for collection. It is during the attempt to collect the account that an ACA member brings the theft to the attention of the consumer and helps them begin the process of addressing and rectifying the problem. In this regard, ACA members have been instrumental in providing victims with an identity theft affidavit and other resources and information to help them clear up the theft. In many instances, credit grantors and third-party debt collectors find themselves in the front line of the battle to expose the crime – frequently working with consumers to unravel the fraud and reconstruct their financial lives. ACA previously partnered with the Commission regarding the development and implementation of the ID Theft Affidavit, and ACA members today widely use the Affidavit for distribution to consumer victims. ACA also participated in a study conducted by the Federal Reserve Board to determine the prevalence of ID theft among consumers.

Identity theft has many victims, however. In addition to the consumers whose identity is stolen, identity theft harms businesses in the United States. Consumers typically do not have to pay for the fraudulent charges of identity thieves. Under many state and federal laws, as well as the policies of individual companies, it is the business from which the goods or services were obtained fraudulently or the financial institutions that extended the credit that pays most of the cost. These financial losses

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are staggering. The Treasury Department estimated that total credit card fraud losses in 2000 resulting from identity theft ranged between \$2-\$3 billion. These losses are absorbed not only by business, but also by consumers through higher prices and increases in the costs of credit, as well as the accounts receivable management industry that invests time and labor in attempting collection of accounts that ultimately are uncollectible by reason of identity theft. And then there are the incalculable costs associated with identity theft by its undermining the economy and acting as a deterrent to consumers' engaging in commercial transactions out of fear of exposing themselves to the crime.

Based on a heightened sensitivity to the implications of identity theft and its extensive experience in the various existing compliance requirements under Federal and State laws, ACA encourages the Commission to develop the record in this proceeding to clarify several points.

First, the credit and collections industry regularly use consumer credit information and SSN as a necessary component for locating consumers and to evaluate a consumer's ability to pay a past due account.

Second, existing statutory and regulatory laws governing the accounts receivable management industry place comprehensive and verifiable restrictions on the credit and

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collections industry to ensure the security of sensitive consumer information, whether it take the form of non-public personal financial information, SSNs, or protected health information. These restrictions cover the lifespan of the use of SSNs from the inception of accounts to the disposal of sensitive documents containing SSN information.

Third, there is no evidence adduced by the President's Identity Theft Task Force indicating that the account receivable management industry is a significant source of identity theft.² This lack of evidence suggests that the existing statutory and regulatory restrictions applicable to the industry are capable of deterring the crime.

Fourth, Federal laws should provide that State or municipality-based initiatives to regulate the use of SSNs are preempted by the Federal standards in order to avoid the proliferation of a patchwork of conflicting mandates that would threaten to grind business transactions to a halt.

Fifth, any privacy legislation on a Federal level that seeks to restrict access to and use of SSNs in order to further deter identity thieves should expressly recognize that SSNs are a necessary component of credit and collection industry transactions as

² The President's Identity Theft Task Force, *Combating Identity Theft: A Strategic Plan*, at 13-18.

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the only unique marker to identify consumers and, as such, full access to entire nine-digit SSNs for these specified transactions should not be restricted.

ACA's concerns about legislative and regulatory efforts to restrict the private sector use of social security numbers are shared by other public and private entities. As noted above, the Commission has expressed sensitivity to striking a proper balance between ensuring that business continue to have full access to SSNs for verification purposes on one hand while guarding against identity thieves having access to SSN data for nefarious purposes.³ Indeed, "[e]xcessive restrictions on the use of SSNs could have deleterious impact on such important purposes as public health, criminal law enforcement, and anti-fraud efforts by making it unduly difficult . . . to identify individuals."⁴ Other well-regarded organizations, such as the DBA International, share similar concerns with those articulated in this comment. For these reasons, ACA endorses the comment filed by the DBA in this proceeding.

³ Prepared Statement of the Federal Trade Commission Before the Ohio Privacy and Public Records Access Study Committee of the Ohio Senate and House of Representatives on Public Entities, Personal Information, and Identity Theft, at 4 (May 31, 2007).

⁴ *See id.*

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II. Background On ACA International.

ACA International is an international trade organization originally formed in 1939 and composed of credit and collection companies that provide a wide variety of accounts receivable management services. Headquartered in Minneapolis, Minnesota, ACA represents approximately 6,000 members based in more than 55 countries and ranging from credit grantors, third-party collection agencies, attorneys, and vendor affiliates.⁵ ACA has numerous divisions or sections accommodating the specific compliance and regulatory issues of its members' business practices.⁶

The company-members of ACA are subject to applicable Federal and state laws and regulations regarding debt collection, as well as ethical standards and guidelines established by ACA. Specifically, the collection activity of ACA members is regulated primarily by the Commission under the Federal Trade Commission Act, 15 U.S.C. § 45 *et seq.*, the FDCPA, the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, and the

⁵ ACA's membership includes approximately 3500 company members, 1200 credit grantor members, 850 attorneys in the Member Attorney Program, 150 affiliate members, 300 asset buyers, and 350 international company members. All stated, ACA represents approximately 95 percent of all debt collectors located in the United States.

⁶ See www.acainternational.org. ACA's divisions include Creditors International, Asset Buyers Division, Members Attorney Program, Government Services Program, Healthcare Services Program, and Internet and Check Services Program.

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Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 *et seq.*, in addition to numerous other Federal and state laws. Indeed, the accounts receivable management industry is unique if only because it is one of the few industries in which Congress enacted a specific statute governing all manner of communications with consumers when recovering payments. In so doing, Congress committed the Federal enforcement of the recovery of debts to the jurisdiction of the Commission.

ACA members range in size from small businesses with a few employees to large, publicly held corporations. Together, ACA members employ in excess of 150,000 workers. These members include the very smallest of businesses that operate within a limited geographic range of a single town, city or state, and the very largest of national corporations doing business in every state. The majority of ACA members, however, are small businesses. Approximately 2,000 of the company members maintain fewer than ten employees, and more than 2,500 of the members employ fewer than twenty persons.

ACA serves members and represents the industry by developing timely information based on sound research and disseminating it through innovative education, training, and communications. The Association also promotes professional and ethical conduct in the global marketplace; acts as the members' voice in critical

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business, legislative, legal, regulatory and public arenas; and provides quality products and services to its members.

To help members stay current on regulatory and business developments, as well as industry practices, ACA provides more than 130 educational and training workshops to its members each year, with nearly 1,000 industry professionals completing ACA's collector credentialing program annually. As discussed in detailed herein, ACA is the industry leader in providing compliance information and education to its members,⁷ and education to consumers to encourage financial literacy. ACA provides consumers with valuable information about their rights under the FDCPA and the Fair Credit Reporting Act.

In addition, ACA has a Code of Ethics and Professional Responsibility (Ethics Code). Upon becoming a member of ACA and as a condition of membership renewal, each member agrees to abide by the Association's Ethics Code. In addition, ACA members must comply with all Federal and state laws and regulations governing the

⁷ Through ACA's Campus ACATM, the Association provides a wide variety of training and educational opportunities such as professional development courses, certification opportunities under ACA's proprietary certification program entitled Professional Practices Management SystemTM (PPMS), local and in-house seminars, online seminars, teleseminars and Webcourses, as well as regularly scheduled conferences. See <http://www.acainternational.org/?cid=321>.

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credit and collection industry. In fact, ACA's commitment to compliance is reflected in the fact that consumers are encouraged to file complaints with ACA. If a complaint is filed regarding an ACA member, ACA investigates the complaint and, if it finds that a member company has violated the Association's standards and ethics guidelines, it will impose sanctions ranging from a private letter of admonition to suspension to expulsion.

III. ACA Members Are A Critical Part Of The Economy.

The credit and collections industry in general, and ACA members in specific, play a crucial role in safeguarding the health of the economy. Uncollected consumer debt threatens the economy. According to a 2006 economic impact study of the collections industry conducted by PricewaterhouseCoopers LLP, third party collection agencies returned \$39.3 billion to creditors measured on a commission basis in 2005.⁸ This represents a savings of \$351 per household each year, which equates to 155

⁸ See PricewaterhouseCoopers, LLP, *Value of Third-Party Debt Collection to the U.S. Economy: Survey and Analysis* (June 27, 2006) (Exhibit 1). The \$39.3 billion returned to creditors in 2005 amounts to a 22 percent reduction in non-public debt. *Id.* It equates to 11.4 percent of the before tax profits of all United States' domestic financial corporations. *Id.*

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gallons of gasoline or 129 days of electricity payments attributed to households.⁹

By itself, outstanding credit card debt has doubled in the past decade and now exceeds one trillion dollars. Total consumer debt, including home mortgages, exceeds \$9 trillion.¹⁰ Moreover, the greatest increases in consumer debt are traced to consumers with the least amount of disposable income to repay their obligations.

As part of the process of attempting to recover outstanding payments, ACA members are an extension of practically every community's businesses. For example, ACA members represent the local hardware store, the retailer down the street, and the local physician. The collection industry works with these businesses, large and small, to obtain payment for the goods and services received by consumers.

ACA members also partner with Federal, state, and local governments to assist in the recovery of public debts. Each year, Federal agencies refer billions of non-tax debts to the Department of Treasury's Financial Management Service (FMS) pursuant to the Debt Collection Improvement Act of 1996. FMS is responsible for "improv[ing] the quality of the [F]ederal government's financial management by increasing the

⁹ *Id.*

¹⁰ William Branigan, *U.S. Consumer Debt Grows at an Alarming Rate*, Wash. Post, Jan. 12, 2004.

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collection of delinquent debt owed to the government, by providing debt management services to all federal agencies, and by protecting the financial interests of the American taxpayer.”¹¹ According to FMS, “the FMS debt collection program is a central tool for sound financial management at the Federal level. Since 1996, FMS has collected more than \$24.4 billion in delinquent debt. In fiscal year 2005, collections of [F]ederal delinquent debt remained at a constant \$3 billion.”¹²

The importance of collections industry also is reflected in other Federal and state initiatives involving partnerships with between industry and government. For example, the Internal Revenue Service has implemented a program, authorized by the Executive Office of the President, to utilize debt collectors to supplement recovery efforts on approximately \$120 billion in unpaid Federal income taxes. In addition, ACA

¹¹ See <http://www.fms.treas.gov/debt/index.html>. The debts include (1) loans made, insured or guaranteed by the government, including deficiency amounts due after foreclosure or sale of collateral; (2) expenditures of non-appropriated funds; (3) overpayments, including payments disallowed by Inspector General audits; (4) any amount the U.S. Government is authorized by statute to collect for the benefit of any person, e.g., consumer redress; (5) the unpaid share of any non-Federal partner in a program involving a federal payment and a matching or cost-sharing payment by the non-Federal partner; and (6) fines or penalties assessed by an agency. See <http://fms.treas.gov/debt/questions.html#Debts%20Included>.

¹² See http://fms.treas.gov/news/factsheets/delinquent_debtcollection_2005.html.

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members are essential to the recovery programs of the Department of Education and state analogs. Comments from interested parties concerning the importance of student loan recovery programs will be submitted to the Commission separately.

Without an effective collection process, the economic viability of these businesses, as well as public debt recovery programs, is threatened. At the very least, Americans would be forced to pay higher prices to compensate for uncollected debt.

IV. Responses To Requests For Comment.

ACA respectfully submits the following responses to the Commission's requests for comment focusing particularly on those areas relevant to ACA's membership and expertise:

1. Current Private Sector Collection and Uses of the SSN

A. What businesses and organizations collect and use the SSN? For what specific purposes are they used?

Response: ACA members, as financial institutions, collect and use SSNs for a variety of different purposes. Credit grantors frequently obtain SSN information for identification purposes, particularly in open ended and closed ended credit transactions requiring the credit grantor to obtain a consumer report to evaluate credit risk. Consumer reporting agencies use SSNs as an identifier. This is a critical unique

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identifier in light of the hundreds of millions of consumer reports maintained by the consumer reporting agencies – each with different tradeline information. The SSN is an organizational and accuracy tool in this context which not only allows for complete and accurate credit information to be maintained and accessed, but also to make sure that the correct consumer is associated with a particular credit transaction given the similarity and subtle variances in consumer report files (e.g., Rob Smith, Robert Smith, Rob A. Smith, Robert Alan Smith, etc.). Healthcare providers use SSNs for much the same reasons. Debt collector members access and use SSNs upon the completion of consumer transactions in compliance with the obligations of the FDCPA, FCRA and FACTA. For example, credit grantors provide demographic and account information on their clients to debt collectors in secured and verified transactions where electronic data files are transmitted to debt collectors. The collectors access this information, including SSN data, to perform due diligence on the accounts. This includes obtaining consumer reports pursuant to FCRA's permissible purposes, verify the identity and information about the debtors, transmitting dispute and accounts status information to consumer reporting agencies, and confirming the identity of debtors in the context of investigating and reconciling identity theft allegations.

B. What is the life cycle (collection, use, transfer, storage and

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disposal) of the SSN within the businesses and organizations that use it?

Response: See response to 1.A. In addition, ACA states that credit grantors typically are responsible for the initial collection of the SSN. Doing so may be part of a credit application, a hospital admission form, or other document creating the relationship between debtor and creditor. Typically the SSN is stored electronically with the credit grantor pursuant to security-enabled computer systems such as those required by the Safeguard's Rule and HIPAA. The SSN is used internally by the credit grantor for account administration purposes, as well as in-house recovery efforts which may include reporting to consumer reporting agencies. Reporting to consumer reporting agencies, whether performed by credit grantors or third-party debt collectors, is conducted electronically through security-enabled systems.

SSNs are protected health information by law. HIPAA's Security Rule identifies standards and implementation specifications that organizations must meet in order to remain compliant with Federal law. The purpose of the Security Rule is to adopt national standards for safeguards to protect the confidentiality, integrity and availability of electronic protected health information (EPHI). Importantly, the Security Rule only applies to protected health information that is in electronic form. Security standards for health information in non-electronic form are not covered by the

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Security Rule. The Privacy Rule, a separate rule under HIPAA, still requires appropriate security of all protected health information, regardless of its format.

All HIPAA covered entities must comply with the Security Rule. In general, the standards, requirements, and implementation specifications of the Security Rule apply to the following covered entities: healthcare providers, health plans and healthcare clearinghouses. When one is acting as a business associate (e.g., billing provider, collection agency) of a covered entity, the business associate must protect the EPHI it creates, receives, maintains or transmits on the covered entity's behalf. Covered entities must require their business associates to implement safeguards to ensure that EPHI is properly protected. These assurances are provided by the business associate agreement. While business associates are not directly subject to the requirements of the Security Rule, it is by way of this document that business associates become obligated to comply with the requirements of the Security Rule.

The Security Rule standards are designed to be scaleable and are technologically neutral in order to best address the individual circumstances of healthcare entities and to adjust for changes in technology. Covered entities may use any security measures that will allow the covered entity to reasonably and appropriately implement the standards and implementation specifications. In deciding what security measures to

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use, the covered entity must take into account its size, complexity, capabilities, costs of security measures and the potential risks to EPHI.

The Security Rule is divided into three main categories: administrative safeguards, physical safeguards and technical safeguards. Additionally, the Security Rule also provides organizational and documentation requirements. Within these categories are standards which define what a covered entity must do. Most of the standards set forth corresponding implementation specifications that provide instructions for executing those standards. In some cases, however, the standard itself includes all the necessary instructions for implementation. In these instances, there may be no corresponding implementation specifications for the standard set forth.

If the SSN is part of non-public personal information covered by the Commission's GLBA Safeguards rulemaking, other security measures are required for the use, storage, and transfer of the data. The Safeguards rule generally applies to consumer reporting agencies, debt collectors, retailers that extend credit by issuing credit cards to consumers, check-cashing businesses and many other entities that meet the definition of "financial institution" as defined in section 509(3)(A) of the GLBA and the Commission's implementing Privacy Rule. The objectives of the Safeguards are to (1) ensure the security and confidentiality of customer records and information;

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(2) protect against any anticipated threats or hazards to the security or integrity of such records; and, (3) protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

Financial institutions are required to develop a written information security program that is appropriate to its size and complexity, the nature and scope of its activities, and the sensitivity of the customer information at issue. The Rule sets forth the general elements that a financial institution must include in its information security program.

Each financial institution must:

- a. Designate an employee or employees to coordinate its information security program in order to ensure accountability and achieve adequate safeguards.
- b. Identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control the risks.
- c. Design and implement information safeguards to control the risks identified through risk assessment, and regularly test or otherwise

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monitor the effectiveness of the safeguards' key controls, systems, and procedures.

- d. Oversee service providers, by taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue; and requiring service providers by contract to implement and maintain such safeguards; and
- e. Evaluate and adjust information security programs in light of the results of the testing and monitoring required; any material changes to its operations or business arrangements; or any other circumstances that the financial institution knows or has reason to know may have a material impact on its information security program.

Other Federal law requirements control the disposal of the SSN. The Disposal Rule, promulgated by the Commission under FACTA, requires the proper disposal of information in consumer reports and records to protect against “unauthorized access to or use of the information.” The Disposal Rule requires reasonable measures for disposing of consumer report information such as adopting policies to: burn, pulverize, or shred papers with SSN information; destroy or erase electronic files or media containing consumer report information; or conduct due diligence and hire a document

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destruction contractor to dispose of SSN information.

C. Are governmental mandates driving the private sector's use of the SSN?

Response: See responses to 1.A and 1.B. Governmental mandates are partially responsible for the use of the SSN in the private sector. An example of this is the mandated standard of accuracy and completeness for furnishing consumer information to a consumer reporting agencies. Satisfying this standard requires the use of SSN in order to make sure that tradeline information is furnished to, and accessed from, consumer reporting agencies for the correct consumer. Other governmental mandates in the form of verification requirements under the FDCPA implicitly, if not explicitly, require the credit and collection industry to use consumers' SSN information as a unique identifier.

Still other government mandates for the use of SSN arise in the context of regulatory efforts to try to prevent and reconcile identity theft. FACTA amended the FCRA to add various new provisions, including subsection 605B which requires nationwide consumer reporting agencies and information furnishers to block information appearing on a consumer's credit file when the consumer indicates that the information resulted from identity theft. The FACTA permits a consumer to contact a nationwide consumer reporting agency to request a block on the identity theft

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information pursuant to subsection 605B. Before the block can be implemented, however, the consumer must provide detailed information to the agency including (1) proof of identity, (2) a copy of an “identity theft report,” (3) the identification of the information in his or her credit file that is the result of identity theft, and (4) a statement that the information is unrelated to a transaction by the consumer. FACTA, § 152(a).

FACTA provides minimum standards for the content of an “identity theft report.” At a minimum, the report must allege that an identity theft occurred; provide a valid copy of a report filed with an appropriate Federal, State, or local law enforcement agency; and subject the consumer to criminal prosecution for filing false information. FACTA, § 111. To protect against abuse, the proposed rule adds a requirement that the consumer provide as much specificity as possible in the report, and allows information furnishers the right to request additional information or documentation to help determine the validity of the alleged identity theft.

Upon receipt of an identity theft report and request for a block, a nationwide consumer reporting agency must notify the information furnisher that (1) the information furnisher’s data may be the result of identity theft; (2) the consumer has filed an identity theft report; (3) the consumer has requested a block of the information; and (4) the effective dates of the block. FACTA, § 152(a). A furnisher must have

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reasonable procedures in place to respond to such notice from the nationwide consumer reporting agency and prevent refurnishing the information. FCRA, § 623(a)(6)(A).

The FACTA also permits consumers to send an identity theft report directly to information furnishers. Pursuant to subsection 623(a)(6)(B), the consumer must send the report to the address specified by the information furnisher, and the report must state that the information maintained by the information furnisher results from identity theft. FCRA, § 623(a)(6)(B). Thereafter the information furnisher is prohibited from providing the information to a nationwide consumer reporting agency unless it knows or is informed by the consumer that the information is correct. *Id.* The use of the SSN as a unique identifier of the consumer victim is essential.

D. Are there alternatives to these uses of the SSN?

Response: For the credit and collections industry, there is no alternative to the SSN. It is the only universally recognized form of consumer identification adhered to by credit grantors and consumer reporting agencies.

E. What has been the impact of state laws restricting the use of the SSN on the private sector's use of the SSN?

Response: The impact of state law restrictions on the use and availability of SSN in the private sector have been multifaceted. State law restrictions frequently

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fail to account for the necessity that the credit and collections industry have full access to SSNs. This creates formidable barriers to the continued processing of consumer transactions and recovery of debts. In some respects, state law restrictions have been duplicative of the Federal statutory and regulatory requirements applicable to the credit and collections industry regarding the safety and security of sensitive consumer information such as SSN, thereby creating yet another level of unnecessary regulatory burdens. In other respects, the state law restrictions threaten inconsistencies with existing Federal requirements governing the use of SSNs.

It is for these reasons that ACA strongly encourages the Commission to fully evaluate in this record proceeding the requirement that any future Federal limitations on SSN usage preempts state or municipal laws. Many of ACA's collection agency members are small businesses, who must focus a large portion of their resources on complying with existing regulation. Legislation without a clear preemption clause would subject ACA members to a patchwork of conflicting and duplicative privacy obligations among the various states, which will impose significant difficulties for compliance in both private and public sectors.

ACA respectfully submits that a fair and appropriate approach is that any Federal privacy legislation expressly state that third party debt collectors already in

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compliance with GLBA or HIPAA are deemed to be compliant with any new privacy regulations and notification requirements. All too often it is the case that new legislation and regulations are created in a manner that conflicts with existing regulations and legislation. For example, requiring debt collectors to notify third parties each time there “may” have been unauthorized access to information maintained by the collector with respect to a consumer’s debt may place the collector at odds with the requirement of the FDCPA strictly prohibiting third party disclosures except in very limited circumstances. Potential inconsistencies or confusion in applying overlapping Federal regulations may also occur if new privacy initiatives use different terminology than existing laws such as HIPAA and GLBA. Finally, any new law should commit the enforcement of the law to the exclusive jurisdiction of the Commission, as opposed to subjecting the private sector to civil litigation and/or class action exposure.

2. The Role of the SSN as an Authenticator

A. The use of the SSN as an authenticator – as proof that consumers are who they say they are – is widely viewed as exacerbating the risk of identity theft. What are the circumstances in which the SSN is used as an authenticator?

Response: The circumstances in which the credit and collections industry utilize SSNs as an authenticator of consumers is discussed above. *See*

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response to no. 1.

B. Are SSNs so widely available that they should never be used as an authenticator?

Response: SSNs are not so widely available to identity thieves that they should no longer be used as an authenticator. To the extent that there is vulnerability in the use of SSNs, typically that risk is greatest in on-line transactions where consumers are required to provide detailed information such as SSNs. That type of risk is very low for the accounts receivable management industry because it is not predicated on Internet-based transactions and there are many existing data security requirements mandated in law. The fact remains that until there is a uniformly accepted substitute that all consumers, business, and government entities adopt as an authenticator to replace SSNs, there is no alternative to the use of the SSN.

C. What are the costs or other challenges associated with eliminating the use of the SSN as an authenticator?

Response: Eliminating or truncating the SSN in consumer-based transactions in the credit and collections industry would create more consumer harm and would not ensure the prevention of identity theft. Without the SSN as a means of authenticating a consumer, the completeness and accuracy of consumer credit records

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would be reduced. Verification of consumer information would be vastly more complicated, thereby injecting uncertainty in the process of recovering debts. Investigating and combating identity theft for consumer victims would be more difficult because of the complications of verify the identity of the victim. All in all, the risks to consumers and to the private sector are far more damaging if SSNs were eliminated or truncated.

3. *The SSN as an Internal Identifier*

A. Some members of the private sector use the SSN as an internal identifier (e.g. employee or customer number), but others no longer use the SSN for that purpose. What have been the costs for private sector entities that have moved away from using the SSN as an internal identifier? What challenges have these entities faced in substituting another identifier for the SSN? How long have such transitions taken? Do those entities still use the SSN to communicate with other private sector entities and government about their customers or members?

Response: The risk of eliminating SSNs as an internal identifier within a company, for example, as an employee identification number, is less. This is because internal identifiers are presumed to be a unique numbers that are not reported outside of a given company. To the extent that the internal identifier is not transferred to third-

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parties, such as consumer reporting agencies, and is not used in consumer transactions, there is no need for standardization of the number.

4. *The Role of the SSN in Fraud Prevention*

A. Many segments of the private sector use the SSN for fraud prevention, or, in other words, to prevent identity theft. How is the SSN used in fraud prevention?

Response: See response to nos. 1-2. To summarize, the credit and collection industry relies on SSNs as a way to investigate account fraud and possible identity theft. This includes the investigatory requirements under FACTA and the Commission's Identity Theft Rule. SSNs perform a necessary function in this context by authenticating consumers and allowing the scope of the crime to be exposed based on the reported use of the SSN.

B. Are alternatives to the SSN available for this purpose? Are those alternatives as effective as using the SSN?

Response: See response to nos. 1-2. There are no other alternatives as effective as SSNs for purposes of preventing and investigating identity theft.

C. If the use of the SSN by other sectors of the economy were limited or restricted, what would the ramifications be for fraud prevention?

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Response: See response to nos. 1-2. Restricting the use of SSNs in some transactions or limiting its use in certain industries would have far-reaching consequences that would complicate the ability to detect and prevent the fraud.

5. *The Role of the SSN in Identity Theft*

A. How do identity thieves obtain SSNs?

Response: The President's Identity Theft Task Force substantively addresses the methods which identity thieves gain access to consumers' SSNs. In addition, it is clear that there is no evidence that the account receivable management industry is itself a substantial source of identity theft, for example, as a consequence of inadequate data security measures. To the contrary, the credit and collections industry is among the most robustly regulated entities when it comes to safeguarding consumers' personal information.

V. Conclusion.

ACA appreciates the opportunity to comment on the issues raised by the Commission. If you have any questions, please contact Andrew M. Beato at

Respectfully submitted,

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